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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,830	01/31/2002	Qin Liu	10014405-1	2306

7590 07/23/2004

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

YUAN, DAH WEI D

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/061,830

Applicant(s)

LIU ET AL.

Examiner

Dah-Wei D Yuan

Art Unit

1745

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-20 and 82-89.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 2. NOTE: The amendment to the specification "[i]n other words, the fuel passages 114 define a fuel supply path along which the fuel droplets travel on their way to an anode 106. The fuel supply paths are substantially parallel to the anode surfaces 124 (note the arrows in Figure 1)" is a new matter, that has no support in the disclosure. The arrows in Figure 1 merely illustrate the entry of the fuel into the anodes, thus cannot be used as an indicative as the fuel path with respect to the anode. Figure 3 is a schematic that only shows the delivery of fuel droplets into a pair of anode, but provides no information concerning the sequential movement of the droplets. Figures 4,7,8,9,13,18 and 19 are diagrammatic views of the fuel cell system which are silent about the beginning, middle and end of the path of fuel droplets. When the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on the measurement of the drawing features are of little value. See *Hockerson-Halberstadt, Inc. V. Avia Group Int'l*, 22 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000).

The scope of the term "surface" in amended claim 82 is broader than that of "plane" in the original claim, therefore, further consideration on the merit is required.

In addition, new grounds of rejections are necessitated by the substantive amendment filed February 17, 2004, because the scope of the independent claims 1,8,14,16,20 has been changed. See MPEP § 706.07(a). As a result, new grounds of rejections are made as stated in Paragraphs 6,8,9,10 of the Office Action dated April 7, 2004. The finality of the outstanding Office Action is deemed proper and is maintained.

New independent claim 90 raises new issue that would require further consideration.

The amendment filed on June 28, 2004 cancels no claim and adds additional 8 new claims.

*Da hui*